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Mr. George Geiger, Chairman
South Atlantic Fishery Management Council
4055 Faber Place Drive, Suite 201
North Charleston, SC 29405

Dear Mr. Geiger:

Thank you for providing NOAA Fisheries Service an additional opportunity to comment on the South Atlantic Fishery Management Council's (Council) March 2007 draft policy statement, *Policies for the Protection and Restoration of Essential Fish Habitats from Marine Offshore Aquaculture*. We appreciate your attention to the comments we provided on earlier drafts of this document, and view the March 2007 draft as much improved.

Nationwide aquaculture is a vibrant industry. Although industry revenues have declined somewhat over the past 10 years, the value of aquaculture product sold in 2005 exceeded \$866 million (U.S. Department of Agriculture 2006)¹. The value of product sold in the U.S. South Atlantic in 2005 exceeded \$94 million, with aquaculture facilities in Florida responsible for the majority of sales value (\$57.4 million), followed by facilities in North Carolina (\$24.7 million), South Carolina (\$4.7 million), then Georgia (\$4.5 million). All aquaculture facilities in these states are located either on uplands or in coastal waters. Snapperfarm, Inc., located off Puerto Rico is the only offshore aquaculture facility presently in existence in NOAA Fisheries Service's Southeast region. Most aquaculture facilities currently operating in the region produce shellfish and seed stock, other marine species (within closed-recirculation systems), or fingerlings or spat that are used to replenish native fish stocks.

The President's U.S. Ocean Action Plan suggests offshore aquaculture could assist in meeting the nation's growing demand for seafood, which reflects a growth in the U.S. population as well as an increased awareness of the health benefits of seafood consumption (Nesheim and Yaktine 2007)². Currently, over 80 percent of the U.S. seafood supply is imported, and over 40 percent of those imports are supplied by foreign aquaculture operations. Given the substantial economic incentive to increase U.S. aquaculture production and the gradual elimination of technological barriers, we expect

¹ U.S. Department of Agriculture. 2006. Census of Aquaculture (2005). 2002 Census of Agriculture. Volume 3, Special Studies. Part 2. AC-02-SP-2.

² Nesheim, M, and A. Yaktine (editors). 2007. *Seafood Choices: Balancing Benefits and Risks*. Institute of Medicine of the National Academies, National Academy Press, Washington, D.C. 722 pages.

all forms of domestic aquaculture to expand over the next decade. Offshore areas may receive particular attention for development (Stickney *et al.* 2006)³, along with expansion of shellfish culture in coastal areas and the use of aquaculture for stock replenishment and habitat restoration. In support of this potential, the Administration proposed the National Offshore Aquaculture Act of 2007.

A system for regulating aquaculture in Federal waters must be developed under new national legislation or through the regional fishery management council process before aquaculture could be permitted in Federal waters. For example, Congress could pass a national aquaculture bill or the Councils could develop regional aquaculture regulatory programs. The New England Council developed a program for scallop farming in Federal waters. The Gulf Council is currently developing a more comprehensive regional program for the Gulf of Mexico. Regardless of how an aquaculture regulatory program is developed and implemented, such a program (or programs) would be subject to national policies and mandates governing rulemaking in the U.S. exclusive economic zone, including the environmental and public process requirements of the National Environmental Policy Act and the notice and comment requirements of the Administrative Procedures Act. Additionally, such programs would be developed in consultation with affected states, Councils, and the public.

The enclosed document provides NOAA Fisheries Service's specific suggestions for modifying the Council's March 2007 draft aquaculture policy. Our general concerns underlying these specific suggestions are outlined below:

1. The draft policy should be limited to a discussion of essential fish habitat and other fisheries issues under the Council's purview. Council comments on the Administration's proposed national legislation should be provided separately.
2. The findings section of the draft policy should address the potential benefits, as well as threats, aquaculture poses to essential fish habitat.
3. The draft Council policies on pages 9-10 are in general appropriate with the following exceptions:
 - Points 2 and 3 address the Administration's proposed offshore bill and should be communicated separate from the Council's policy statement. Additionally, Point 3 is confusing because the National Offshore Aquaculture Act does not modify or dilute any essential fish habitat provisions of the Magnuson-Stevens Fishery Conservation and Management Act, or implementing regulations.
 - Point 4 is appropriate for an aquaculture policy if it is intended to refer to a permit system that might be developed by the Council.
 - Point 5 suggests aquaculture activities should be held to a "negligible risk" standard. The essential fish habitat conservation standards required of aquaculture should be the same as those required of other non-fishing activities.

³ Stickney, R., B. Costa-Pierce, D. Baltz, M. Drawbridge, C. Grimes, S. Phillips, and D.L. Swann. 2006. Toward sustainable open ocean aquaculture in the United States. *Fisheries* 31: 607-610.

- Points 7 and 8 are inconsistent with NOAA Fisheries Service’s position that marine species propagated and reared through offshore aquaculture be species native to the geographic region unless a scientific risk analysis shows that the risk of harm to the marine environment from the offshore culture of a non-indigenous or genetically modified species is negligible or can be effectively mitigated.
- Requiring aquaculture operations to fund undefined environmental restoration, as suggested in Point 11, would be inconsistent with how other marine activities (e.g., fishing, boating) are required to ensure against potential risks to the marine environment. Instead, we recommend requiring permit holders to comply with specific environmental performance standards, and then subjecting those who violate these conditions to civil and criminal action.

NOAA is developing a comprehensive regulatory program for marine aquaculture operations, which is intended to enable the expansion of aquaculture to complement the production of wild caught seafood, while safeguarding the nation’s environmental resources and balancing multiple uses of the marine environment. This program will complement existing regulatory programs used to manage aquaculture operations, including U.S. Army Corps of Engineers and U.S. Coast Guard regulations governing the placement of structures within navigable waters, U.S. Environmental Protection Agency and state regulations governing activities affecting water quality, and Food and Drug Administration regulations governing the use of therapeutants. Additionally, this program will complement NOAA Fisheries Service’s regulatory programs governing marine fisheries and protected species. We look forward to the Council’s continued involvement and input in this program.

Sincerely,

Roy E. Crabtree, Ph.D.
Administrator
Southeast Regional Office

Michael Rubino, Ph.D.
Manager, NOAA Aquaculture Program

Enclosure